

HOUSE BILL No. 1488

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-11-2-21.5; IC 12-7-2; IC 12-32; IC 22-5-1.5.

Synopsis: Unauthorized aliens. Requires the superintendent of the state police department to: (1) negotiate terms of a memorandum of understanding (memorandum) concerning a pilot project for the enforcement of federal immigration and customs laws; and (2) designate appropriate police employees to be trained under the memorandum. Prohibits a state agency or political subdivision from providing federal, state, or local public benefits to a person who is not a: (1) United States citizen; or (2) qualified alien under the federal Immigration and Nationality Act and lawfully present in the United States. Requires a state agency or a political subdivision to verify the lawful presence in the United States of certain individuals who apply for public benefits. Requires a state agency or political subdivision to: (1) verify the lawful presence of the person; (2) verify the lawful presence of certain individuals through the Systematic Alien Verification of Entitlements (SAVE) program; and (3) report errors and significant delays in the SAVE program. Provides that a person who makes a false, fictitious, or fraudulent statement in an affidavit verifying lawful presence commits a Class D felony. Requires employers to: (1) comply with requirements regarding verification of employment under federal law; and (2) make verification forms available for inspection by the commissioner of labor. Requires the commissioner of labor to file a complaint with the United States Office of the Attorney General if an employer fails to retain or to make available for inspection a verification of each employee.

Effective: July 1, 2009.

Eberhart

January 14, 2009, read first time and referred to Committee on Interstate and International Cooperation.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1488

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-11-2-21.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2009]: **Sec. 21.5. (a) The superintendent shall**
4 **negotiate the terms of a memorandum of understanding between**
5 **the state and the United States Department of Justice or the United**
6 **States Department of Homeland Security concerning a pilot**
7 **project for the enforcement of federal immigration and customs**
8 **laws in Indiana.**

9 (b) The memorandum of understanding described in subsection
10 (a) must be signed on behalf of the state by the superintendent and
11 governor, unless otherwise required by the United States
12 Department of Justice or the United States Department of
13 Homeland Security.

14 (c) The superintendent shall designate appropriate police
15 employees to be trained under the memorandum of understanding
16 described in subsection (a).

17 (d) The department shall apply for federal funding, as available,



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for the costs associated with training police employees under the memorandum of understanding described in subsection (a).

(e) A police employee certified as trained in accordance with the memorandum of understanding described in subsection (a) may enforce federal immigration and customs laws while performing within the scope of the police employee's duties.

SECTION 2. IC 12-7-2-9, AS AMENDED BY P.L.93-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. "Agency" means the following:

(1) For purposes of IC 12-10-12, the meaning set forth in IC 12-10-12-1.

(2) For purposes of IC 12-12.7-2, the meaning set forth in IC 12-12.7-2-1.

(3) For purposes of IC 12-32-1, the meaning set forth in IC 12-32-1-1.

SECTION 3. IC 12-7-2-76.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 76.6. (a) "Emergency medical condition", for purposes of IC 12-15-12, has the meaning set forth in IC 12-15-12-0.3.

(b) "Emergency medical condition", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-2.

SECTION 4. IC 12-7-2-85.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 85.1. "Federal public benefit", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-3.

SECTION 5. IC 12-7-2-142 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 142. "Political subdivision", for purposes of the following statutes, has the meaning set forth in IC 36-1-2-13:

(1) IC 12-8.

(2) IC 12-13-4.

(3) IC 12-32-1.

SECTION 6. IC 12-7-2-169.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 169.7. "SAVE program", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-4.

SECTION 7. IC 12-7-2-185.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 185.5. "State or local public benefit", for purposes of IC 12-32-1, has the meaning set forth in IC 12-32-1-5.

SECTION 8. IC 12-32 IS ADDED TO THE INDIANA CODE AS

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A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 32. RESTRICTIONS ON PUBLIC BENEFITS

Chapter 1. Restrictions on Public Benefits to Illegal Aliens

Sec. 1. As used in this chapter, "agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

Sec. 2. As used in this chapter, "emergency medical condition" has the meaning set forth in 42 U.S.C. 1396b(v)(3).

Sec. 3. As used in this chapter, "federal public benefit" has the meaning set forth in 8 U.S.C. 1611.

Sec. 4. As used in this chapter, "SAVE program" means the Systematic Alien Verification for Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.

Sec. 5. As used in this chapter, "state or local public benefit" has the meaning set forth in 8 U.S.C. 1621.

Sec. 6. This chapter shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Sec. 7. Except as provided in section 9 of this chapter or in federal law, an agency or a political subdivision may not provide federal public benefits or state or local public benefits to an individual who is not:

- (1) a United States citizen; or
- (2) a qualified alien under the federal Immigration and Nationality Act who is lawfully present in the United States.

Sec. 8. Except as provided in section 9 of this chapter or in federal law, an agency or a political subdivision shall verify, in the manner provided in section 10 of this chapter, the lawful presence in the United States of each individual who:

- (1) is at least eighteen (18) years of age; and
- (2) applies for:

- (A) federal public benefits; or
- (B) state or local public benefits;

that are administered by the agency or political subdivision; before the agency or political subdivision may provide federal public benefits or state or local public benefits to the individual.

Sec. 9. An agency or a political subdivision is not required to meet the requirements of sections 7 and 8 of this chapter for any of the following:

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(1) A purpose for which lawful presence in the United States is not required by law, ordinance, or regulation.

(2) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition of the individual involved and are not related to an organ transplant procedure.

(3) Short term, noncash, in-kind emergency disaster relief.

(4) Public health assistance for:

(A) immunizations with respect to a disease for which an individual may be immunized; and

(B) testing and treatment of symptoms of communicable diseases regardless of whether symptoms are caused by a communicable disease.

(5) Programs, services, or assistance, including soup kitchens, crisis counseling and intervention, and short term shelter, specified by the United States Attorney General in the United States Attorney General's sole and unreviewable discretion after consultation with appropriate federal agencies and departments, that:

(A) deliver in-kind services at the community level, including services through public or private nonprofit agencies;

(B) do not condition the:

(i) provision of assistance;

(ii) amount of assistance provided; or

(iii) cost of assistance provided;

on a recipient's income or resources; and

(C) are necessary for the protection of life or safety.

(6) Prenatal care.

Sec. 10. An agency or a political subdivision shall verify the lawful presence in the United States of an individual described in section 8 of this chapter by requiring the individual to execute a verified affidavit stating that the individual is:

(1) a United States citizen; or

(2) a qualified alien under the federal Immigration and Nationality Act who is lawfully present in the United States.

Sec. 11. (a) If an individual executes an affidavit under section 10 of this chapter stating that the individual is a qualified alien lawfully present in the United States, an agency or a political subdivision shall verify the lawful presence of the individual to determine eligibility for federal public benefits or state or local public benefits through the SAVE program.

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(b) An affidavit executed under section 10 of this chapter may be presumed to be proof of an individual's lawful presence in the United States under this chapter until eligibility is verified under this section.

Sec. 12. An agency or a political subdivision shall report any errors or significant delays by the SAVE program to the:

- (1) United States Department of Homeland Security; and
- (2) secretary of state.

Sec. 13. An agency or a political subdivision may adopt a variation of the requirements set forth in this chapter to:

- (1) improve the efficiency of verifying an individual's lawful presence in the United States under this chapter;
- (2) reduce delay in verifying an individual's lawful presence in the United States under this chapter; or
- (3) provide for an adjudication in the case of unique individual circumstances under which the procedures set forth in this chapter would impose unusual hardship on a legal resident of Indiana.

Sec. 14. A person who knowingly or intentionally makes a false, fictitious, or fraudulent statement in an affidavit executed under section 10 of this chapter commits a Class D felony.

Sec. 15. An agency may adopt rules and a political subdivision may adopt an ordinance or a resolution to carry out this chapter.

SECTION 9. IC 22-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 1.5. Verification for Employment

Sec. 1. As used in this chapter, "commissioner" refers to the commissioner of labor or the commissioner's authorized agent.

Sec. 2. As used in this chapter, "unauthorized alien" has the meaning set forth in 8 U.S.C. 1324a(h).

Sec. 3. An employer shall comply with the requirements regarding verification under 8 U.S.C. 1324a of the United States Immigration and Nationality Act.

Sec. 4. An employer shall:

- (1) retain a verification form of each employee as required under 8 U.S.C. 1324a; and
- (2) make the verification forms described in subdivision (1) available to the commissioner upon request.

Sec. 5. The commissioner shall file a complaint with the United States Office of the Attorney General under 8 U.S.C. 1324a(e) if an employer fails to retain or make available for inspection a

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- 1 verification of each employee as required under 8 U.S.C. 1324a and
- 2 section 4 of this chapter.

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